

# CMPA

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Aloha Chair Garcia and members of the Budget Committee,

The Community Media Producers Association (CMPA) would like to submit some additional stealth information that has been omitted from any council discussions or broadcast or print news regarding the telecasting budget cut, which we were told was in Bill 15, but appears it could be in 14 or 16 too. CMPA believes this information should be part of the public record in order for the public and the council members to make informed comments and decisions. The council should use this information to do what is pono (righteous). CMPA believes the public should be able to access all council meetings on television in an equitable manor with the Public's ability to access the medium to disseminate their own individual message(s).

- 1) In 2007 Honolulu City Council chair Barbara Marshall requested more than the annual \$44,000.00 from 'Olelo. She requested \$87,000.00, but was denied.
- 2) Nestor Garcia submitted legislation to HSAC in 2008 & to the Legislature in 2010 to have DCCA assist in getting more funds from 'Olelo. He contends PEG funds & City budgeting for council telecasts is "double taxation".
- 3) Nestor has met secretly/privately with Keali'i Lopez at 'Olelo, behind closed door.
- 4) There is no agreement in place this fiscal year for 'Olelo provisions to the council, now 38 days prior to the end of this fiscal year which it is for, while at the same time 'Olelo bid for the contract to televise council meetings, and won.
- 5) Records on the award for the contract where not available in violation of state law. The most damning being that Nestor Garcia was one of the award committee members and the reasons for his award were not in writing as required by Law!
- 6) Chair Apo, whom my unprovided record requests have been to, admitted (by phone) he had been advised by Corporation Council not to speak with me.
- 7) Through a lengthy process, the award to 'Olelo was retracted.
- 8) Access Services corporation is a for-profit, not a non profit.
- 9) There is a question as to whether or not 'Olelo should be competing with for-profits on government contracts using public funds. DCCA suggested they exercise caution.
- 10) If there is no agreement, then the services being provided by 'Olelo can only be considered an unregistered gift.
- 11) 'Olelo has been actively lobbying in favor of state legislation to exempt them from procurement requirements while at the same time using procurement to take away jobs from others.
- 12) 'Olelo's 1 million dollar annual deficit budgets have been ongoing for 6 years, approved in closed executive session by their board, paid for through funds withheld from public use by investing it rather than using it for their intended mission.
- 13) Deficits are due to them opening new centers in DOE schools whose schedules for public use have been cut by as much as 20%, but apparently not for the schools' use.
- 14) Note Keali'i Lopez said in a newspaper article: "we, from a fiscal perspective, aren't in a position to be able to provide that assistance JUST YET." (emphasis added) which to me says they are in closed discussion(s).
- 15) Though the council telecast budget cut passed three committees, the total amount of time taken by 2 committees and a full meeting of the council was less than 4 minutes. (video available

- upon request) The notice of the cut was only available as an amendment via a Council Communication: <http://bit.ly/bbhsEr> There is nothing specific about it in Bill 14, 15 or 16.
- 16) There is a question before Corporation Council as to whether or not the purported \$30,000.00 worth of "In-kind" online archiving services 'Olelo provides should be required to go out for competitive bid.
- 17) In order to accommodate increased facility access to government and education, facility hours for the public use have been decreased.
- 18) The original RFP for PEG contracts still is not done after 5 years. May 21, 2010 the second attempt began (see: "May 20, 2010-SPO issues RFP-10-007-SW for PEG services (May 21, 2010) ")
- 19) Procurement for council telecasting services is still not done after over a year since the original RFP was posted.
- 20) Since 2004 to date City Council has been offered \$30,000.00 to take over oversight of PEGs and their board of directors from DCCA in "ISSUE #1: PEG Oversight" in DCCA's Final PEG Plan - January 2004.

In summary: There is a lot more than meets the eye in this apparent less-than-democratic process.

I respectfully request that the contents and especially the hyperlinks be preserved in their original look and functionality within this document, including all links and information below which should be considered part of my testimony.

Sincerely,

*Jeff Garland*

Secretary, Community Media Producers Association (CMPA)

CMPA members' demonstration to (HSAC) Hawai'i State Association of Counties in 1998 regarding the potential of streaming media to disseminate legislative & government official's hearings and information over the internet.

05/15/07 letter from past Honolulu City Council chair Marshall requesting almost twice as much funding from 'Olelo

05/24/07 Olelo CEO Lopez Response to chair Marshall's additional funding request

7/2/07 NEIGHBORHOOD BOARD REVIEW TASK FORCE MINUTES - Task Force Member Wickramaratna says he heard Council member Garcia say the City is requesting that Olelo air Neighborhood Board meetings at no charge

2007 Resolution for 'Olelo services  
putting a value on 'Olelo's Granicus provided streaming and archiving at \$40,000.00, thus reducing 'Olelo's grant to the council to \$4,000.00 cash and the streaming in lieu of the other \$40,000.00.

2007 'Olelo 990 Income Tax Return showing grant monies to the City Council decreased by \$40,000.00.

06/06/08 Letter from 'Olelo CEO Keali'i Lopez to Honolulu City Cou... decreasing the purported value of video archiving services from \$40,000.00 to \$30,000.00

08/28/08 Nestor Garcia's HSAC resolution  
to get DCCA to assist County Councils in negotiating with PEG organizations for more G funds It was reported to me that Mr. Garcia took over the issue of more funding from PEGs when chair Marshall became ill and was too upset with 'Olelo's response to deal with it.

11/12/08 'Olelo board minutes  
in which CEO Lopez says she will be meeting with Nestor Garcia in regards to the HSAC Resolution. The meeting was held at 'Olelo, not in council member Garcia's office.

01/02/09 Letter from DCCA CATV to Sen. Les Ihara Jr.  
in which CATV administrator Clyde Sonobe states: "It is DCCA's position that Olelo should not also charge a fee for PEG access services to the Legislature or any other entity when it is already agreed to perform these services in exchange for the Oceanic payments.  
Moreover, since the PEG access organizations are non-profit organizations (HRS 440G-3), DCCA has cautioned PEG organizations to exercise caution when undertaking activities that would jeopardize their non-profit/non-commercial status. In addition, DCCA has raised concerns about PEGs doing work for private businesses who would have otherwise utilized the services of a commercial production company for the development of video programs. In these situations commercial production companies could complain that PEG organizations have an unfair competitive advantage over private companies since PEGs have acquired equipment, facilities and staffing through government directed funding."

01/17/09 Nestor Garcia's failed attempt to get legislation, analogous to his HSAC Resolution, passed by the State Legislature.  
See HR 155.

04/20/09 REQUEST FOR PROPOSALS COUNCIL TELECASTING DIRECTOR  
What is most questionable is the fact that this RFP is for 4 years when all prior ones were for 2 years. Why was this change made at this point in time?

07/30/09 City Council request for an exemption  
for current telecasting services provider, Access Services Corporation (ASC), to continue as provider while their protest of the award to 'Olelo: The Corporation for Community Television (dba 'Olelo Community Television & 'Olelo Community Media) is settled. This is the page it is linked from, but there is no link on the City Council's or the State Procurement Office's website to get you to this page.

9/8/2009 Response to CMPA record Request  
for a copy of the award committee members' individual score sheets and

written evaluations. In essence it says they do not exist, even though law requires them to.

Yet to be introduced (draft) Resolution

for 'Olelo provision of \$44,000.00 in PEG funds (as a grant), which is \$14,000.00 in cash and Granicus archiving of council telecasts online in lieu of \$30,000.00 of the grant funds usually given.

Exemption from 103D, HRS - Telecasting Services (Sept. 25, 2009)

09/23/09 Letter to Honolulu City Council Chair Todd Apo.

In essence it verifies there was a violation of HAR 3-122-52 (c)(1) by the Telecasting Services RFP award committee, and their attempt to write history after the fact. . See 9/8/2009 Response to CMPA record Request above.

10/07/09 EXECUTIVE MATTERS & LEGAL AFFAIRS (EMLA)

AGENDA

'Olelo's annual agreement (by resolution above) to provide grant monies, equipment and maintenance to the City Council still has yet to be approved and is not on this agenda. It is usually complete prior to the start of the fiscal year July 1, and historically no later than the end of August, but has yet to be approved this year for the fiscal year July 31, 2009 - June 30, 2010. It was reported that the reason it has yet to be completed is because 'Olelo still has yet to reply to the City's draft that was made available to 'Olelo months ago. In 2007 EMLA chair Kobayashi added the resolution to the agenda after the committee meeting had started, so there was no opportunity for public comment,

11/04/09 EXECUTIVE MATTERS & LEGAL MATTERS AGENDA:

a resolution for 'Olelo's annual agreement to provide grant monies, equipment and maintenance to the City Council still has yet to be approved and is not on this agenda. This is the longest in history this has taken. It appears the Council is waiting on the outcome of the protest of the award to 'Olelo of the Telecasting Services contract.

11/06/09 Current Status of ASC protest of award to 'Olelo: I was informed today by Clayton Wong that the protest has gone before the DCCA Office of Administrative Hearings (OAH). **The deadline for OAH's ruling is 11/19/08.** DCCA's motto is "upholding fairness in the marketplace"

11/16/2009 4:29 PM email from Clayton Wong in response to a record request for a copy of the 'Olelo/Granicus agreement referred to in the annual agreement between 'Olelo and the City Council (by resolution). This is the delayed response to my request. Correspondences from OIP to Todd Apo and Apo back to OIP are included.

11/17/09 response to above email from Clayton Wong requesting additional information to establish just where the \$30,000.00 value of the 'Olelo/Granicus video archiving came from.

11/16/09 DCCA Office of Administrative Hearings (OAH) decision

on ASC protest of award to 'Olelo.

In a nutshell, the Hearings officer "orders that the contract awarded to Intervenor ('Olelo) be terminated". They have to start the process over.

12/09/09 Audio from DCCA OAH hearing.

12/10/09 Late Response to 11/17/09 record request.

In essence an admission that the City Council is again in violation of state procurement laws because they do not maintain records that are required to be pursuant to Law.

There are many more emails, responses and missing records that I have either not had time to post or I have yet to actually get! The stock answer of "We do not maintain that record" in essence avoids publicly admitting that they know it should exist, but doesn't !